

STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING

Department of Public Health

Petition No. 2005-0801-010-062

vs.

Patricia Lopa, RN, Lic. No. R56598
Respondent

MEMORANDUM OF DECISION

Procedural Background

The Board of Examiners for Nursing (hereinafter “the Board”) was presented by the Department of Public Health (hereinafter “the Department”) with a Statement of Charges and Motion for Summary Suspension dated August 15, 2005. Dept. Exh. 1. The Statement of Charges alleges violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Patricia Lopa, RN (hereinafter “respondent”) which would subject respondent’s registered nurse license to disciplinary action pursuant to *Conn. Gen. Stat.* §§ 19a-17 and 20-99(b).

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that respondent’s continued nursing practice presented a clear and immediate danger to public health and safety. On August 17, 2005, the Board ordered, pursuant to its authority under § 4-182(c) and § 19a-17(c) of the General Statutes of Connecticut, that respondent’s registered nurse license be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. Dept. Exh. 1.

The Board issued a Notice of Hearing dated August 17, 2005, scheduling a hearing for September 7, 2005. Dept. Exh. 1.

Respondent was provided notice of the hearing and charges against her. The Summary Suspension Order, Notice of Hearing and Statement of Charges were served on respondent by State Marshal on August 23, 2006. Dept. Exh. 2.

The hearing took place on September 7, 2005, in Room 1-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. Respondent was not present during the hearing and was not represented by counsel. Transcript, September 7, 2005, pp. 2-3.

Respondent did not submit an Answer to the Statement of Charges. During the hearing the Department orally moved to deem the allegations admitted. The Board granted the Department’s motion. Transcript, p. 5.

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board’s specialized professional knowledge in evaluating the evidence.

Findings of Fact

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Respondent was issued registered nurse license number R56598 on March 26, 1999. Respondent was the holder of said license at all times referenced in the Statement of Charges. Dept. Exh. 1-tab 2.
2. Pursuant to a Consent Order dated July 19, 2000, the Board ordered that respondent's registered nurse license be placed on probation for a period of four (4) years. Such disciplinary action was based upon respondent's admitted diversions of Vicodin ES and Percocet from patient stock for personal use while employed at Bentley Gardens Nursing Center in West Haven, Connecticut during 1999. Said Order specifically provided that respondent shall not obtain or use controlled substances, legend drugs or alcohol in any form unless prescribed or recommended for a legitimate therapeutic purpose by a licensed health care professional authorized to prescribe medications and that respondent shall submit to random alcohol/drug screens that shall be negative for the presence of alcohol and drugs. Dept. Exh. 1-tab b.
3. Respondent voluntarily surrendered her registered nurse license effective April 30, 2001. Dept. Exh. 1-tab c.
4. Pursuant to a Reinstatement Consent Order dated February 16, 2005 (hereinafter "the Reinstatement Order"), respondent's registered nurse license was reinstated to probation for a period of four (4) years. Conditions of probation required random screens that are negative for the presence of drugs and alcohol and that respondent shall refrain from the use of controlled substances unless legitimately prescribed. Said order also requires that respondent engage in therapy and counseling sessions and that respondent complete a registered nurse refresher program prior to resuming the active practice of nursing. Dept. Exh. 1-tab d.
5. Respondent submitted to a random urine screen on or about July 7, 2005. Laboratory results for the July 7, 2005 urine specimen were positive for the presence of bezoylcegonine (cocaine.). Dept. Exh. 1-tab e.
6. Respondent does not currently participate in a 12-step recovery program. However, she has matriculated into a women's group for peer support and feedback. In addition, respondent has not completed a registered nurse refresher program as set forth in the reinstatement order. Dept. Exh. 1-tab a.

Conclusions of Law and Discussion

In consideration of the above Findings of Fact, the following conclusions are rendered:

Patricia Lopa held a valid registered nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges provided sufficient legal notice as mandated by *Conn. Gen. Stat.* §§ 4-177(a) and (b), and 4-182(c). The hearing was held in accordance with *Conn. Gen. Stat.* Chapters 54 and 368a as well as §§ 19a-9-1 through 19a-9-29 of the Regulations of Connecticut State Agencies.

The Summary Suspension Order, Notice of Hearing, Statement of Charges, and the hearing process provided respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by *Conn. Gen. Stat.* § 4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The **FIRST COUNT PARAGRAPH 2** of the Statement of Charges alleges that on or about February 16, 2005, the Connecticut Board of Examiners for Nursing ordered a Reinstatement Consent Order in Petition Number 2004-0927-010-082 that placed respondent's registered nurse's license on probation for a period of four (4) years. Such disciplinary action was based upon respondent's admitted diversions of Vicodin and Percocet from June 1999 through December 1999, while working at Bentley Gardens Nursing Center in West Haven, Connecticut.

The **FIRST COUNT PARAGRAPH 3 and 4** of the Statement of Charges alleges that said Reinstatement Consent Order requires that respondent shall not obtain or use any controlled substance unless prescribed or recommended and shall submit to random urine screens that shall be negative for the presence of drugs and alcohol.

The **FIRST COUNT PARAGRAPH 5** of the Statement of Charges alleges that on or about July 7, 2005, respondent submitted to a random urine screen as required by the Reinstatement Consent Order.

The **FIRST COUNT PARAGRAPH 6** of the Statement of Charges alleges that respondent's July 7, 2005 urine specimen tested positive for cocaine. GC/MS testing confirmed the presence of benzoylcegonine at a level of 326 ng/ml.

The **FIRST COUNT PARAGRAPH 7** of the Statement of Charges alleges that respondent's conduct constitutes a violation of the terms of probation as set forth in the Reinstatement Consent Order dated February 16, 2005.

The **SECOND COUNT** of the Statement of Charges alleges that on or about July 7, 2005 respondent abused and or utilized cocaine, and that respondent's abuse of cocaine does and/ or may, affect her ability to practice as a registered nurse.

The General Statutes of Connecticut § 20-99 provides in relevant part:

(a) The Board of Examiners for Nursing shall have jurisdiction to hear all charges of conduct which fails to conform to the accepted standards of the nursing profession brought against persons licensed to practice nursing. After holding a hearing . . . said board, if it finds such person to be guilty, may revoke or suspend his or her license or take any of the actions set forth in section 19a-17. . . .

(b) Conduct which fails to conform to the accepted standards of the nursing profession includes, but is not limited to, the following: (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals . . .

Respondent did not submit an Answer to the Statement of Charges. Pursuant to § 19a-9-20 of the Regulations of Connecticut State Agencies the Board deems the allegations in the First and Second Counts of the Statement of Charges to be admitted.

Based on its findings, the Board concludes that respondent's conduct as alleged in the First and Second Counts of the Statement of Charges is proven by a preponderance of the evidence presented, and that said conduct violates the terms of probation as set forth in the Reinstatement Consent Order dated February 16, 2005. The Board, therefore, concludes that respondent's conduct constitutes grounds for disciplinary action pursuant to *Conn. Gen. Stat.* §§ 20-99(b)(5) and 19a-17.

Order

Pursuant to its authority under *Conn. Gen. Stat.* §§ 19a-17 and 20-99, the Board of Examiners for Nursing hereby orders the following:

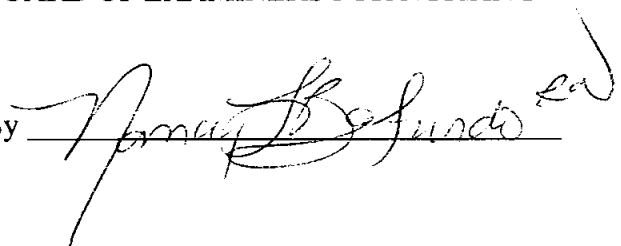
That for Count 1 and Count 2 of the Statement of Charges, respondent's registered nurse license number R56598, is revoked effective the date this Memorandum of Decision is signed by the Board.

The Board of Examiners for Nursing hereby informs respondent, Patricia Lopa, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Newington, Connecticut this 5th day of April, 2006.

BOARD OF EXAMINERS FOR NURSING

By

A handwritten signature in cursive script, appearing to read "Nancy B. Gifford", is written over a horizontal line. The signature is written in dark ink and includes a small "2nd" superscript at the end.